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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,725	08/25/2003	John F. Duff	P6769	2168

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EXAMINER

SINARS, JAMES R

ART UNIT	PAPER NUMBER
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2635

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,725

Applicant(s)

DUFF ET AL.

Examiner

JAMES R. SINARS

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

SUPERVISORY PATENT EXAMINER

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informality:

Page 11, line 9 reads: "Device 40 and base station 80 of FIGS. 1 and 2...". It should read: "Device 40 and base station 80 of FIGS. 1 and 2, respectively...", since both elements do not appear in same figure. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraph of 35 U.S.C. 102 that forms the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-12, 14-19 and 21-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Del Castillo, U.S. Patent 6,742,188.

Re: Claim 1, Del Castillo discloses a device for providing indicia in synchronization with a video program (e.g., figs. 1-3, abstract), the device comprising:
a communication port adapted to receive a video input signal of the video program (col. 7, line 57-58; Del Castillo teaches the controller i.e. 10 includes a data source that receives or generates video data. Thus, it's evidenced that a communication port to receive video input signal as claimed is anticipated);

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a central processing unit in communication with the communication port, said central processing unit detecting data embedded in the video input signal (Col. 8, line 58 – col. 9, line 5, Del Castillo teaches a control device i.e. 60 includes a processor that communicates with the controller 10 via an RF channel. The control device receives control data and interprets i.e. detects the control data embedded in the video input signal. See col. 6, line 48-53, which talks about encoding control data into horizontal overscan area of a video signal);

indicia in communication with the central processing unit, said central processing unit activating said indicia upon detection of the data embedded in the video input signal (Col. 9, Lines 5-9; Del Castillo teaches that the response of the processor may include actuating one or more servo motors, providing input to the speech synthesizer, or activating any of the other end effectors provided in a particular controlled device. This demonstrates that said indicia of the claim is in communication with the processor).

Re: Claim 2, the device of claim 1 further comprising a storage device having a stored program in communication with said central processing unit, said stored program executing upon detection of the data embedded in the video input signal by said central processing unit (Col. 8, Lines 27-40, Col. 9, Line 24-34; Del Castillo describes programs running on a personal computer and microprocessor-based systems, which are evidence of a storage device for storing these programs. (See also discussion w/r to Claim 1.)

Re: Claim 3, the device of claim 1 further comprising a read-only-memory (ROM) having a stored program in communication with the central processing unit, said stored

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program executing upon detection of the data embedded in the video input signal by said central processing unit. (See discussion w/r to Claim 2. As for the ROM as claimed, see col. 11, line 58-60, fig. 2: 24, col. 16, line 21-24).

Re: Claim 4, the device of claim 1 further comprising a random-access-memory (RAM) in communication with the central processing unit and allowing for temporary storage of instructions or data by the central processing unit. (See discussion w/r to Claim 2. As for the RAM as claimed, see col. 11, line 58-60, fig. 2: 24, col. 16, line 21-24).

Re: Claim 5, the device of claim 1 further comprising a read-only-memory (ROM 24), a random-access-memory (RAM 25), a storage device (hard disk 27) and a bus (system bus 23), each of said read-only-memory, random-access-memory and storage device communicating with the central processing unit (21) through said bus. (Fig. 2; See discussion w/r to Claim 2.)

Re: Claim 6, the device of claim 1 wherein said device includes a base station housing (computer 20) the communication port (46 and 53), the central processing unit (21) and a wireless transmitter module (80 as shown in figure 3) in communication with the central processing unit and further comprising a wireless receiver unit remote from said base station and attached to said indicia so that said indicia communicates with the central processing unit of the base station by wireless transmission. (Col. 7, Lines 30-39; Col. 15, Lines 22-36; Col. 16, Lines 16-61; Fig. 6 and 7)

Re: Claim 7, the device of claim 6 wherein said wireless receiver unit (controlled device 60 as showing in figure 7) includes a second central processing unit (microprocessor, Col. 16, Lines 20-21)

Re: Claim 8, the device of claim 7 wherein said wireless receiver unit includes a storage device (RX data buffer 65) having a stored program (control data), said storage device in communication with said second central processing unit (63) and executing upon detection of the data embedded in the video stream by the central processing unit of the base station. (Col. 16, Lines 20-24)

Re: Claim 9, the device of claim 7 wherein said wireless receiver unit includes a read-only-memory having a stored program, said read-only memory in communication with the second central processing unit and executing upon detection of the data embedded in the video stream by the central processing unit of the base station. (Col. 16, Lines 20-32)

Re: Claim 10, the device of claim 7 further comprising a random-access-memory housed in the wireless receiver unit and in communication with the second central processing unit and allowing for temporary storage of instructions or data by the second central processing unit. (Col. 16, Lines 24-29)

Re: Claim 11, the device of claim 7 further comprising a read-only-memory, a random-access-memory, a storage device and a bus housed in the wireless receiver unit, each of said read-only-memory, random-access-memory and storage device communicating with the second central processing unit through said bus. (Fig. 2 shows the common method for interconnecting the elements of Claim 11 is a system bus.)

Re: Claim 12, the device of claim 6 wherein said wireless receiver unit includes a visual indicia. (light source, Col. 8, Lines 61-66)

Re: Claim 14, the device of claim 6 wherein said wireless receiver device includes an audible indicia. (See reference w/r to Claim 12.)

Re: Claim 15, the device of claim 14 wherein said indicia includes a speaker. (speaker 43 as shown in figure 2, See reference w/r to Claim 12.)

Re: Claim 16, the device of claim 6 wherein said indicia includes a toy. (Col. 1, Lines 29-31; Col. 8, Lines 58-61)

Re: Claim 17, the device of claim 16 wherein said toy moves when said central processing unit detects the data embedded in the video input signal. (Col. 11, Lines 29-39)

Re: Claim 18, the device of claim 16 wherein said toy simulates speech when said central processing unit detects the data embedded in the video input signal. (See reference w/r to Claim 17; Col 16, Lines 42-46)

Re: Claim 19, the device of claim 1 wherein said indicia includes a visual indicia. (See reference w/r to Claim 12.)

Re: Claim 21, the device of claim 1 wherein said indicia is audible. (Col. 3, Lines 40-45; See reference w/r to Claim 18.)

Re: Claim 22, the device of claim 21 wherein said indicia includes a speaker. (See reference w/r Claim 12.)

Re: Claim 23, the device of claim 1 wherein said indicia includes a toy that moves when said central processing unit detects the data embedded in the video input signal. (See reference w/r Claim 17.)

Re: Claim 24, the device of claim 1 wherein said indicia includes a toy that simulates speech when said central processing unit detects the data embedded in the video input signal. (Col. 16, Lines 42-50)

Re: Claim 25, a method for providing indicia in synchronization with a video program comprising the steps of: embedding data in the broadcast signal of the video program; transmitting the broadcast signal; receiving the broadcast signal at a location remote from where the broadcast signal was transmitted; detecting the data embedded in the broadcast signal; and activating the indicia in response to the data embedded in the broadcast signal. (This claim is a method step claim that directly corresponds to the elements of device Claim 1. Since Claim 1 has been analyzed and rejected, references for Claim 1 also apply for the rejection of Claim 25.)

Re: Claim 26, a system for providing indicia in synchronization with a video program, the system comprising: means for embedding data into a broadcast signal of the video program; means for transmitting the broadcast signal in communication with the means for embedding data into the broadcast signal; means for receiving the broadcast signal from the means for transmitting the broadcast signal; and an external device in communication with the means for receiving the broadcast signal, said external device providing the indicia upon receipt of the data embedded in the broadcast signal. (See references w/r to Claim 1.)

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(b) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13 and 20 are rejected under 35 U.S.C. 103(b) as being unpatentable over Del Castillo.

Re: Claim 13, the device of claim 12 wherein said indicia includes a flashing red light. Del Castillo teaches an indicia (see discussion in claim 1 above), but does not specifically disclose indicia that includes a flashing red light. However, Del Castillo states that a controlled device (60) may include many other types of end effectors, such as light sources (Col. 8, Lines 64, 65). Del Castillo also describes using bandwidth to provide advertising, emergency warning services and weather warnings (Col. 2, Lines 53-60). Therefore, Official Notice is taken to note that a person having ordinary skill in the art would have found it obvious that the light sources noted by Del Castillo are intended to be modified, e.g., size, color and on/off cycling, i.e., flashing, for the benefit of application in advertising and/or warning systems (e.g., for hearing and hearing impaired subscribers).

Re: Claim 20, the device of claim 19 wherein said indicia includes a flashing red light. (See discussion w/r to Claim 13.)

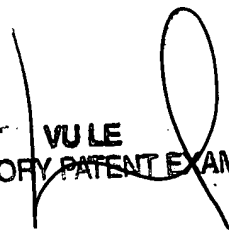
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Contact

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES R. SINARS whose telephone number is 571-270-1191. The examiner can normally be reached on M-F (ALT FRI OFF) 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VU LE can be reached on 571-270-9999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


VU LE
SUPERVISORY PATENT EXAMINER

/James Sinars/
9/25/2006